

DATE: June 10, 2015

AGENDA ITEM: C

TO: BSCC Chair and Members

FROM: Patricia Pechtel, pat.pechtel@bscc.ca.gov

SUBJECT: Office of Administrative Law (OAL) Signature Authority for Board of State and Community Corrections (BSCC) Executive Director: **Requesting Approval.**

Summary

Staff asks the BSCC to grant OAL rulemaking signature authority to Executive Director Kathleen Howard, through the attached Delegation.

The BSCC is authorized by the following statutes to establish minimum standards through rulemaking:

- Penal Code sections 6030 and 6035
- Welfare and Institutions Code sections 210, 885 and 1975
- Government Code sections 15820.906, 15820.916, 15820.925, 15820.93, 15820.930, 15820.931, 15820.932, 15820.933, 15820.934, 15820.934, 15820.935 and 15820.936

Background

Government Code section 11343(g) and 1 Cal. Code of Regs. Section 6 require the head of the state agency that is adopting, amending or repealing a regulation to sign documents submitted to the OAL in connection with the rulemaking activity. Section 11343(g) requires that the certification or delegation of authority to sign on behalf of the state agency shall be in writing.

Penal Code section 6025.6 specifically authorizes the BSCC to delegate any ministerial authority or duty conferred or imposed upon the Board. The BSCC has the authority to delegate signature authority to its Executive Director.

OAL signature authority must rest in the Executive Director in order to allow the BSCC staff to continue with rulemaking activities it has already begun, with respect to rules interpreting and implementing statutes including but not limited to AB 1837, SB 863, SB 81, SB 1022 and AB 900, and to begin new rulemaking actions pursuant to new statutory authority not yet granted. For example, this signature authority will allow the BSCC to file the final documents to complete the regulatory process for the SB 81 regulations, as well as to file the necessary documents to begin the emergency rulemaking process for SB 863.

Previous BSCC delegations authorized various acting Executive Directors and/or Executive Officers to sign rulemaking documents and certifications. Those previous delegations should be rescinded, and all authority to sign and certify any rulemaking documents that may be necessary should be vested immediately in Executive Director Kathleen Howard.

The BSCC is continuously engaged in rulemaking activity. This OAL signature and certification authority is necessary so that authority remains intact and there are no delays in current BSCC rulemaking files.

Recommendation/Action Needed

Staff recommends that the BSCC approve:

- Effective immediately, Executive Director Kathleen Howard is vested with all authority BSCC has, and all that is deemed necessary, by statute, regulation or OAL request, to sign or certify documents for adoption or other rulemaking purposes.
- Any and all previous Delegations of Signature Authority for OAL or regulatory purposes are hereby rescinded, are no longer effective and any originals should be destroyed.
- Chair Linda Penner is authorized to sign the attached signature authority form, evidencing this Delegation.

Attachments

C-1: OAL Signature Authority